

DISCLAIMER

This electronic version of an SCC order is for informational purposes only and is not an official document of the Commission. An official copy may be obtained from the [Clerk of the Commission, Document Control Center](#).

PETITION OF

CAVALIER TELEPHONE, LLC

CASE NO. PUC990191

**For arbitration of interconnection
rates, terms and conditions, and
related relief**

HEARING EXAMINER'S RULING

January 23, 2001

On January 8, 2001, Verizon Virginia, Inc. ("Verizon") filed a Motion to Dismiss or To Stay Proceeding ("Motion") pursuant to Rule 5:16(d) of the Commission's Rules of Practice and Procedure.¹ Verizon, in support of its Motion, states that the Commission is currently establishing performance standards and associated remedies in Case No. PUC000026² ("Collaborative case"). Verizon argues that both Cavalier and Verizon are active participants in the Collaborative case and that the issues in the present case can be addressed in the Collaborative case. Verizon further argues that establishing interim measures pending the outcome of the Collaborative case would be a waste of Commission and party resources. Finally, Verizon states that Cavalier does not need interim measures to achieve its goals, arguing that Verizon is devoting time and effort to improve its processes and results for all competing local exchange companies.

Cavalier filed a Response on January 16, 2001, opposing Verizon's Motion on a number of grounds. First, Cavalier maintains the Motion does not meet the requirements of Rule 5:16 of the Commission's Rules of Practice and Procedure. Second, Cavalier claims it is entitled to interim relief and that it has pursued other alternatives to no avail. Third, Cavalier argues that any potential inconsistency of interim measures with the final outcome of the Collaborative case lacks merit because Verizon's existing performance assurance plan is potentially inconsistent with the final outcome of the Collaborative case efforts. Finally, Cavalier cites the importance of a timely resolution of the matters involved in this case.

¹Rule 5:16(d)(i) provides that a motion to dismiss may address a lack of Commission jurisdiction, a failure to state a cause of action, or other legal insufficiency apparent on the face of the application, protest, or rule to show cause.

²On March 2, 2000, the Commission issued an Order Establishing Collaborative Committee (Case No. PUC000026), to establish a Collaborative Committee to consider and recommend specific market opening measures to facilitate telecommunications competition in Virginia.

I find that Verizon's Motion should be denied. The Collaborative case is comprehensive; it is in the beginning stages and very likely will take a long time to resolve. In the meantime, Cavalier is entitled to a hearing on the merits of the issues it raises. Accordingly, Verizon's Motion is **DENIED** and the procedural schedule and hearing date remain as established.

Howard P. Anderson, Jr.
Hearing Examiner